From: Frederic W. Brehm
To: Microsoft ATR
Date: 1/23/02 10:35pm
Subject: Microsoft Settlement

The proposed settlement is inadequate.

If I violated Federal law, I would be punished. Just saying "I promise not to do that again" would not be acceptable to the court. A violation of Federal law requires punishment AND some way of assuring that the violation will not be repeated. Microsoft has managed to dodge both the punishment and the assurance in the past. It's time to make sure that it does not happen again.

I am a software engineer who specializes in real-time embedded systems. I know something about the architecture, design, and implementation of computer systems. A modern operating system divides responsibilities among programs that run in separate "address spaces" or in separate computers communicating through some communication channel.

Microsoft should publish the details of the programming interface that allows programs in separate address spaces or on separate computers to interact, and how they store persistent information in files or other storage media. This is not the same as the implementation of the programs; source code does not have to be disclosed. The information is only how to talk to the programs. This will prevent Microsoft from using proprietary interfaces to drain the "oxygen" from potential competitors. This information should be disclosed for any program, operating system, hardware, or other object that Microsoft sells at retail, or delivers to distributors, OEM's or special partners to be sold as part of a bundle of hardware, software, or services.

This information must be disclosed in a reasonable time frame and errors corrected in a reasonable time frame. This time frame should be short enough that Microsoft does not gain competitive advantage over others who wish to make use of the interfaces. (This is part of the punishment.) The information should be free of any encumbrances or restrictions on its use. An independent auditor should should be appointed to judge the timeliness of the publication of the information, and nobody should be enjoined from suing to gain timely access to the information. If the auditor or a judicial proceeding finds that Microsoft has illegally restricted the information, then the full source code for the affected program must be published with no restrictions on its use.

Another method that Microsoft has used to extend its monopoly is to provide special pricing in exchange for special favors. While this is

not, in general, a bad thing for a business to engage in, it is very bad for a monopoly to use this method to leverage its market dominance. As a punishment, Microsoft should be prevented (perhaps for some limited time like five or ten years) from using differential pricing in all markets. Microsoft should use a uniform pricing schedule for all customers. The pricing can vary by volume, and perhaps by gross market segment (OEM, government, education), but should not vary by combinations of products ordered nor should the schedule dissect the market into tiny segments that change over the time the restriction is in effect. Judicial oversight must be exercised, perhaps by allowing lawsuits by plaintiffs that believe that they were classified incorrectly.

This is an outline of what I think would be a fair and equitable arrangement with a company that has never played fair, nor has understood their relationship to the government that protects them. If the company cannot abide by these restrictions, then it must be broken into separate pieces that do not command a monopoly power over their respective markets.

Sincerely,
Fred Brehm

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